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APR 22 2010

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

APR 21 2010

By

Clerk

Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Subcases: 29-13935 & 29-13936

Case No. 39576

ORDER GRANTING MOTIONS TO FILE
LATE NOTICE OF CLAIM

On January 4, 2009, Dennis and Yvonne Toney filed a *Motion to File Late Notice of Claim* for each of the above-captioned water rights. Hearing was held on the *Motions* on April 20, 2010. These *Motions* complied with all procedural requirements under **SRBA Administrative Order 1**, and no objections were made to these late Notices of Claim.

THEREFORE, IT IS ORDERED, that the *Motions to File a Late Notice of Claim* for each of the above-captioned water rights are **granted**.

The original Notices of Claim, as well as any attached filing fees, and a copy of this **Order** will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claims will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of **SRBA Administrative Order 1** 4d(2)(h).

IT IS SO ORDERED.

Dated April 21, 2010.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING
MOTIONS TO FILE LATE NOTICE OF CLAIM was mailed on April 21,
2010, with sufficient first-class postage to the following:

DENNIS TONEY

YVONNE TONEY

Represented by:

MC KENZIE, JAY R

MC KENZIE & MC KENZIE PA

102 N STATE ST STE 1

PRESTON, ID 83263

Phone: 208-852-3500

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line.

APR 22 2010

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-13935

Date Received: 4-22-2010

Receipt No: C090585

Received By: SRB \$111

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Dennis and/or Yvonne Toney

Mailing Address 13001 S. Robin Rd

Arimo

Street or Box

City

2. Date of Priority (Only one (1) per claim) April 1 1978

Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water (✓) or Other () (a)

which is tributary to (b)

4. a. Location of Point of Diversion is: Township 10S, Range 36E, Section 4
SE, 1/4 of SE, 1/4 Govt. Lot SE, BM., County of BANNOCK

Parcel (PIN) no.

Additional points of diversion if any:

If available, GPS Coordinates 2643587, 1265237 TAG #A0000233

b. If instream flow, beginning point of claimed instream flow is:

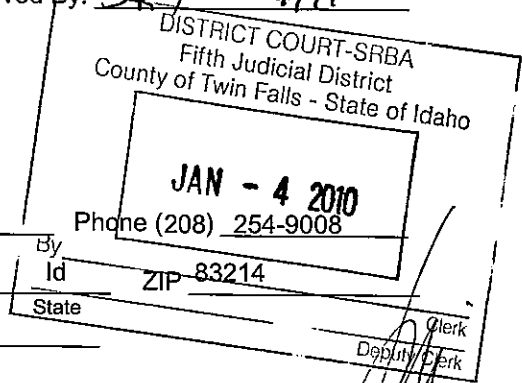
Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

ending point is: Township _____, Range _____, Section _____, _____, 1/4 of _____, 1/4

Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. WELL AND PUMP



29-13935

POU

POD



6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For IRRIGATION purposes from 4/15 to 10/31 amount 0.36 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 0.36 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	36E	4																11	11

Parcel (PIN) no(s),

Total number of acres irrigated 11

10. In which county (ies) are lands listed above as place of use located? BANNOCK

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

or None ()

13. Remarks: BY USE OF PUMP AND SPRINKLERS WE WILL IRRIGATE 11 ACRES OF OUR LAND. WATER FROM THE FRESHETT DECREE IS SPORADIC AND LIMITED TO A SHORT TIME PERIOD IN THE SPRING. WE WOULD USE THE WELL WATER WHEN THE GARDEN CREEK WATER IS NOT AVAILABLE. CALVERT CHRISTENSEN DRILLED THE DOMESTIC AND IRRIGATION WELLS IN 1975 WHEN HE PURCHASED THE PROPERTY AND BUILT A HOUSE. AS YOU CAN SEE FROM THE PLAT MAP PROPERTY WAS CONTINUED TO BE FARMED

Last Name TONEY

Identification No.

14. Basis of Claim (Check One) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do (☐) do not (☐) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, _____, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Vernie F. Toney Date Dec. 28, 2009

Address 13001 S. Robin Rd
Armo, Id 83214

Last Name _____ Identification No. _____

APR 22 2010

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-13936

Date Received: 4/22/2010

Receipt No: C0915588

Received By: SRB 777

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) DENNIS AND/OR YVONNE TONEY

Mailing Address 13001 S. ROBIN RD ARIMO ID ZIP 83214

Street or Box

City

State

2. Date of Priority (Only one (1) per claim) MAY 1, 1887

Month Day Year (YYYY)

3. Source of water supply (Check one) ☐ Ground Water () or Other (☒) (a) GARDEN CREEK

which is tributary to (b) MARSH CREEK

4. a. Location of Point of Diversion is: Township 10S, Range 36E, Section 4, SW, 1/4 of SE, 1/4 Govt. Lot SE, BM., County of BANNOCK

Parcel (PIN) no.

Additional points of diversion if any:

If available, GPS Coordinates

b. If instream flow, beginning point of claimed instream flow is:

Township, Range, Section, 1/4 of, 1/4

Govt. Lot, BM., County of

ending point is: Township, Range, Section, 1/4 of, 1/4

Govt. Lot, BM., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. DAMS, DITCHES, AND SPRINKLERS.

By _____
Phone (208) 254-9008
Clerk
Deputy Clerk

JAN - 4 2010

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For IRRIGATION purposes from 4/15 to 10/31 amount 0.12 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 0.12 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.)

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	36E	4																11	11

Parcel (PIN) no(s).

Total number of acres irrigated 11

10. In which county (ies) are lands listed above as place of use located?

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

or None ()

13. Remarks: WE ARE ASKING THE WATER RESOURCE BOARD FOR A PERMIT TO DIVERT 0.36 CFS

FROM A WELL LOCATED ON THIS PROPERTY FOR IRRIGATION WHEN FRESHETT WATER IS NOT

AVAILABLE GARDEN CREEK IRRIGATION CO. FRESHETT DECREE STATES THAT NANNIE B ROLLISON

IS ALLOWED 0.75 CFS WITH MAY 1, 1887 AND 1.0 CFS WITH MAY 4 1904 PRIORITY DATES. THIS 11

ACRES WAS WATERED UNDER THIS DECREE FROM 1904 TO 1986 WHEN CALVERT CHRISTENSEN

LOST THE PROPERTY THRU BANKRUPTCY. ANDY ABRAMS BOUGHT THE PROPERTY IN 1986 FROM

IDAHO BANK AND TRUST. HE ALSO FARMED THE PROPERTY BUT I DON'T BELIEVE HE FILED FOR THE

WATER RIGHTS.

Last Name TONEY

Identification No.

29-13936

POD

POH



14. Basis of Claim (Check One) Beneficial Use () Posted Notice () License () Permit () Decree (✓)

Court 5TH JUDICIAL Decree Date OCT. 15, 1906 Plaintiff v. Defendant WOLVERTON ET AL VS. GAR

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Snake River Basin Adjudication." (b.) I/We do () do not (✓) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, _____, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Yvonne Toney Date Dec 28, 2009

Address 13001 S. Robin Rd
Arima ID 83214

Last Name TONEY Identification No. _____